

UNITED STATES BANKRUPTCY COURT
FOR THE
SOUTHERN DISTRICT OF NEW YORK



In re:)
)
)
Residential Capital, LLC, et al,)
Debtors)
_____)

Case NO. 12-12020(MG)

Chapter 11

Jointly Administered

**MOTION OF PATRICIA LeBLANC TO MODIFY THE AUTOMATIC
STAY AND SEVER CLAIMS INVOLVING GMAC MORTGAGE, LLC
AND PROCEED WITH PERSONAL INJURY CLAIMS INVOLVING OTHERS**

On December 6, 2009 Patricia LeBlanc was at her apartment at 18 Phoenix Street, Shirley, MA with her three young minor children. At approximately 2:00 A.M. a fire broke out at 18 Phoenix Street, Shirley. Patricia LeBlanc was sleeping at the time. As a result of the fire breaking out, Patricia LeBlanc's young minor children awoke and were able to flee the apartment. Patricia LeBlanc awoke but was trapped by smoke and fire in the apartment. A neighbor, Joseph Hawthorne, who was a captain in the Shirley Fire Department was off-duty and at home at the time of the fire. Joseph Hawthorne responded to the fire. He pulled Patricia LeBlanc out of the building to the street. Patricia LeBlanc was then taken from the fire scene by emergency personnel and admitted to the Massachusetts General Hospital.

Patricia LeBlanc was incubated and on a ventilator immediately following the fire of December 6, 2009. Patricia LeBlanc had multiple operations during her initial period of hospitalization at the Massachusetts General Hospital. Patricia LeBlanc spent over three (3) months at the Massachusetts General Hospital before being transferred to the Spaulding

Rehabilitation Center. Upon admission to the Spaulding Rehabilitation Center, Patricia LeBlanc was not able to walk. While at the Spaulding Rehabilitation Center, Patricia LeBlanc learned to walk again and was discharged in April of 2010. Patricia LeBlanc was essentially confined to a bed during this time. Medical bills to date exceed One Million Five Hundred Thousand (\$1,500,000.00) Dollars.

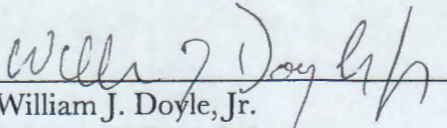
Patricia LeBlanc, by her counsel filed a personal injury claim against the Federal National Mortgage Association, Nationwide REO Brokers, Inc. and Brendave Corporation. Discovery in this personal injury liability claim is in the initial stages. Interrogatories and requests for production of documents have been served and responded to by the various parties. Several depositions have been conducted, including the deposition of the Federal National Mortgage Association which was held in Dallas, Texas on May 10, 2013. Multiple other depositions were scheduled to be held during June and July of 2013, but have now been postponed.

The claims against Federal National Mortgage Association, Nationwide REO Brokers, Inc. and Brendave Corporation involve their ownership and/or management of the property at 18 Phoenix Street, Shirley, MA. Recently Nationwide REO Brokers, Inc. asserted a third party claim against GMAC Mortgage, LLC based upon GMAC Mortgage LLC's transfer/sale of the property in November of 2009. When GMAC Mortgage LLC became aware that a third party liability claim had been asserted it filed a Notice Of Bankruptcy with a resulting stay of the proceedings in accordance with 11 U.S.C. §362 (a)(1).

A stay will impinge Patricia LeBlanc's right to litigate her claim and create a substantial hardship as discovery will be pending for an extended period of time. A modification of the stay which severs all claims against GMAC Mortgage, LLC, staying those claims, and allowing discovery to proceed as to all other parties is necessary to permit adequate pre-trial discovery to proceed. A modification of the stay will not prejudice GMAC Mortgage, LLC as all actions will

continue to be stayed against it. The automatic stay was never intended to preclude a determination of tort liability. In re Bock Laundry Machine, 27 B.R. 564, 567 (Bkrtcy, N.D. Ohio 1984). 11 U.S.C. 36 2 (d) (1) expressly permits a court to grant partial or total relief from a stay on a showing of good cause.

For the foregoing reason, Patricia LeBlanc requests that this Court modify the automatic stay allowing all claims to proceed while staying Nationwide REO Brokers, Inc.'s claim against GMAC Mortgage, LLC.


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